

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

NORTHERN DYNASTY MINERALS LTD.
and PEBBLE LIMITED PARTNERSHIP,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, *et al.*,

Defendants.

Case No. 3:24-cv-00059-SLG,
and consolidated cases

[PROPOSED] ORDER EXTENDING ABEYANCE

For the reasons stated in Defendants' Status Report and Motion to Extend Abeyance ("Motion"), ECF **, and for good cause shown, the Motion is GRANTED. Accordingly, IT IS HEREBY ORDERED that:

(a) This matter is held in abeyance for an additional 30 days, to allow new Government leadership to familiarize themselves with the issues in these consolidated cases and determine how they wish to proceed.

(b) Briefing regarding the pending Motion to Complete or Supplement the United States Army Corps of Engineers' Administrative Record, ECF 128, and Motion for Leave to Obtain Limited Discovery to Complete, or in the Alternative to Supplement, the Record, ECF 127, including Defendants' and Defendant-Intervenors' responses, remains stayed.

(c) Defendants shall submit status a status report by June 13, 2025, that addresses

N. Dynasty Minerals Ltd. v. EPA, and consolidated cases, No. 3:24-cv-00059-SLG

Defendants' review of the issues presented in these cases; proposed case proceedings, including further briefing of the pending motions at ECF 127 and 128; and any request to extend this abeyance beyond June 13, 2025.

DATED this ** day of May 2025, at Anchorage, Alaska.

UNITED STATES DISTRICT JUDGE

Defendants respectfully request that this Court hold these consolidated cases in abeyance for 90 days to provide an opportunity for new agency leadership to review the decisions being challenged in this case. Counsel for Defendants have conferred with counsel for all other parties and is informed that the plaintiffs in the consolidated cases, the Bristol Bay Intervenors, and Trout Unlimited do not oppose placing these consolidated cases in abeyance with a status report due in 90 days, as discussed further below. The SalmonState Intervenors take no position.

In further support of this motion, Defendants state:

1. In these consolidated cases, all plaintiffs challenge the January 2023 Final Determination of the U.S. Environmental Protection Agency Pursuant to Section 404(c) of the Clean Water Act [for the] Pebble Deposit Area, Southwest Alaska (“Final Determination”). In addition, plaintiffs in Case No. 3:24-cv-00059-SLG (collectively, “PLP”) challenge the U.S. Army Corps of Engineers’ April 2024 denial without prejudice of PLP’s Clean Water Act Section 404 permit application for the Pebble Mine. More than 20 entities have intervened as defendants.

2. Due to the recent change in administration on January 20, 2025, there is new government leadership. New agency officials are currently in the process of onboarding and familiarizing themselves with the issues presented in these cases. To provide new leadership with sufficient time to familiarize themselves with these issues and determine how they wish to proceed, Defendants respectfully request that the Court place this case in a brief abeyance, with a status report due from Defendants in 90 days. An abeyance will conserve judicial resources and promote the efficient and orderly disposition of these consolidated

cases, including by ensuring that any positions taken by Defendants before this Court reflect the views of current agency leadership. Defendants reserve the right to seek to extend the abeyance beyond the 90 days as circumstances require.

3. Counsel for Defendants agree to meet and confer with the other parties that desire such conferral regarding the status of Defendants' review, proposed case proceedings, and any anticipated request to extend this abeyance beyond ninety days on or before April 18, 2025.

4. Further briefing regarding the pending Motion to Complete or Supplement the United States Army Corps of Engineers' Administrative Record, ECF 128, and Motion for Leave to Obtain Limited Discovery, ECF 127, would be stayed during the abeyance period. Defendants would address the potential scheduling for briefing of those motions in Defendants' status report due in ninety days.

5. For the foregoing reasons, this Motion to Hold Matter in Abeyance should be Granted. A proposed order is being submitted herewith.

Respectfully submitted on February **, 2025

LISA LYNNE RUSSELL
Deputy Assistant Attorney General
Environment and Natural Resources Division

KATHRYN R. VOGEL
United States Attorney
District of Alaska

/s/ [DRAFT]
MARK A. NITCZYNSKI
United States Department of Justice - ENRD
Environmental Defense Section
999 18th Street; South Terrace, Suite 370
Denver, CO 80202
Phone: (303) 844-1498 (Nitzczynski)
Email: mark.nitzczynski@usdoj.gov

ALBERT LIN
United States Department of Justice - ENRD
Environmental Defense Section
P.O. Box 7611
Washington, D.C. 20044
Phone: (202) 514-2741
Email: albert.lin@usdoj.gov

Attorneys for the United States